

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/886,675  
Applicant : Giorgio Grasso  
Confirmation No. : 6479  
Filed : June 20, 2001  
TC/A.U. : 2633  
Examiner : Bello, Agustin  
Customer No. : 27896  
Docket No. : 0370.0735C (formerly CISC684)  
Title : VSB Transmitter Using Locked Filter

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Declaration of Gary T. Aka in Support of Petition to Revive**

Sir:

I hereby declare as follows:

1. I am Gary T. Aka, a patent attorney who was tasked to prosecute the above-identified application.
2. On July 29, 2005, I filed a Power of Attorney executed by Robert Barr, Director of Intellectual Property for Cisco Technologies, Inc., the assignee of this application. The Power of Attorney indicated the appointment of the practitioners associated with Customer Number **54406**, which is the Customer number for my firm Aka Chan LLP.
3. I received a notice from the U.S. Patent and Trademark Office ("PTO") dated August 22, 2009, indicating that the Power of Attorney submitted on July 29, 2005 did not include a required certificate under 37 CFR §3.73(b).
4. On September 9, 2005, my colleague, Melvin D. Chan, submitted to the PTO a statement under 37 CFR §3.73(b) that provided evidence of ownership of the entire right, title and interest in this application by Cisco Technologies, Inc.
5. On September 23, 2005, I submitted a Request for Continued Examination in this application in response to an Advisory Action issued August 10, 2005, mailed to the prior attorney of record, Cindy S. Kaplan.

6. On September 27, 2005, I received a Notice Regarding Change of Power of Attorney mailed by the PTO on September 19, 2005, addressed to the prior attorney of record, Cindy S. Kaplan. That Notice indicated that the power of attorney had been revoked from Ms. Kaplan.
7. On October 5, 2005 a non-final Office Action was issued by the PTO. That Office Action was addressed to Ellis Charles Rainey, having a Customer Number of **54460**.
8. A Notice of Abandonment was subsequently issued by the PTO on April 18, 2006. The Notice of Abandonment was also sent to Mr. Rainey (Customer Number **54460**)
9. Neither the Office Action mailed October 5, 2005, nor the Notice of Abandonment was received by me, apparently as a result of transposed digits in the Customer Number.
10. On October 9, 2006, my colleague Melvin D. Chan filed a request for Change of Correspondence Address, indicating that the correspondence address should be that associated with Customer Number **54406**.
11. At the time that the last office action in this case was received, I was solely responsible for the prosecution for the above-identified patent application. This patent application was one of many patent applications owned by Cisco Technology, Inc. ("Cisco"), for which I was responsible.
12. These Cisco cases had been transferred from another law firm in 2005 when my current firm started. At that firm three patent practitioners including myself drafted and prosecuted patent applications for Cisco. When that law firm ceased operations, the cases, which numbered in the hundreds, both closed and pending cases, were transferred to my firm.
13. At my firm there were originally two of us who worked on these cases. In early 2007 the second person left the firm, and from that point forward, I alone handled the Cisco cases. These cases formed a significant portion of my practice. These cases

included the prosecution of previously filed patent applications and the preparation of new patent applications.

14. Due to the number of filed Cisco cases, the work load from these cases gradually increased as the examination of more and more of the transferred patent applications began. I was solely responsible for responding to the large number of office actions for these patent applications.

15. I have a set procedure for handling incoming office actions. When I receive an office action, the office action is first docketed in a computer-based docketing system and matched with the appropriate case. I then place the case into a particular one of numerous stacks in my office, with the intention to review and respond as appropriate to that office action. Despite the procedures I had in place and due to the volume of responses I was responsible for, I failed to respond to the office action in the above-identified case. In short, I became overwhelmed by the volume of incoming cases and, despite a clear intention to respond to all office actions for which I was responsible, I was unable to respond to all of the office actions. Consequently, some applications for which I was responsible, including the present application, became abandoned.

16. I never intended to abandon this application. I never received any instructions or other indication from Cisco that this application should be abandoned.

17. I never informed or notified Cisco that this application was abandoned.

18. At this point, this application has been transferred to a new firm, Edell, Shapiro & Finnan LLC, for handling. The entire delay from the due date for the reply to the outstanding office action in the present case until the transfer of this case to Edell, Shapiro & Finnan was unintentional.

19. I believe the petition for revival for unintentional abandonment pursuant to 37 C.F.R. § 1.137(b) should be granted. I am available to provide any further details regarding the facts concerning the delay in support of this petition.

20. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further

that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Gary T. Alca

Gary T. Alca  
Reg. No. 29,038

May 28, 2009  
Date